

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
v.	)	CRIMINAL ACTION
	)	NUMBER: 1:22-CR-188-LMM-CMS
JAMES WAN,	)	
	)	
Defendant.	)	

**DEFENDANT'S MOTION IN LIMINE TO EXCLUDE AND SUPPRESS**

COMES NOW, Defendant, JAMES WAN, by and through undersigned counsel and files this, his Motion in Limine to Exclude and Suppress the Anonymous Tip and Statements made by the Defendant showing the Court as follows:

**STATEMENT OF FACTS**

By true bill of indictment filed May 24, 2022 in the United States District Court for the Northern District of Georgia, Atlanta Division, Defendant James Wan is charged with “knowingly us[ing] a facility of interstate commerce with the intent that the murder of an individual ‘T.B.’ be committed, in violation of Georgia Law (O.C.G.A. § 16-5-1), as consideration for the receipt of, and as consideration for a promise and agreement to pay, something of pecuniary value, all in violation of Title 18, United States Code, Section 1958(a)” “[f]rom on or about April 18, 2022, through on or about May 12, 2022.” A warrant of arrest was issued on May 18, 2022, and Defendant was arrested on May 20, 2022.

Defendant now moves, for orders excluding the uncorroborated unanimous tip received by the Federal Bureau of Investigations and voluntary confessions made to Federal Agents as a result of the uncorroborated tip sent to the FBI.

**ARGUMENT AND CITATION OF AUTHORITY**

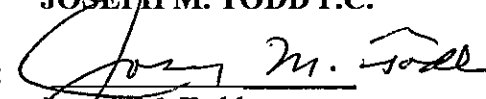
There was insufficient Probable Cause to support interviewing the Defendant for the above referenced Federal charge since it was based on an uncorroborated Anonymous Tip. In *Illinois v. Gates* the United States Supreme Court reiterated that an anonymous tip alone is never sufficient to give rise to probable cause. *Ill. V Gates U.S., 103 S. Ct. 2317, 76 L. Ed 2d 527 (1983)*. The Statements made by the Defendant were made in exchange for an impermissible hope of benefit, in violation of O.C.G.A. § 24-8-824. The arrest of the Defendant was not supported by probable cause, inasmuch as the facts used to secure the arrest warrant were tainted fruit derived from the anonymous tip received by the FBI in May of 2022. *Cooper v. State, 260 Ga. App. 333, 336 (2003)*. See also *Stidham, 683 S.E. 2d at 907*. None of the evidence “discovered” by the United States, which it intends to introduce against the Defendant at trial, would have never been found if it wasn’t for the uncorroborated anonymous tip. Based on the information obtained from the unlawful interception and/or dissemination of the Defendant’s account on Coinbase, any testimony as a result of the anonymous tip should be suppressed. Any evidence that is acquired by law enforcement through the exploitation of information obtained by unlawful conduct is inadmissible in a criminal prosecution. *Lawson v. State, 684 S.E. 2d 1 (Ga. App. 2009)*. In order for the Court to make a reasonable determination of evidence must be excluded under the fruit of the poisonous tree doctrine, this Court must ask the question whether the evidence in this case has been gathered by exploitation of that illegality or instead by means that is deemed sufficiently indistinguishable from the initial retrieval of the anonymous tip to the FBI. Therefore, the evidence gathered as a result of the anonymous tip including the statements made by the Defendant while speaking to the FBI Agents is tainted and must be suppressed.

For these reasons, Defendant hereby requests that the Court issue an order granting the suppression of the anonymous tip, testimony stemming from the anonymous tip, and voluntary confessions made by the Defendant to the interviewing FBI Agents as a result of the anonymous tip.

This 15th day of May, 2023.

Respectfully submitted,  
**JOSEPH M. TODD P.C.**

By:

  
Joseph M. Todd  
Attorney for Defendant  
Ga. Bar Number: 713750

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**CERTIFICATE OF SERVICE**

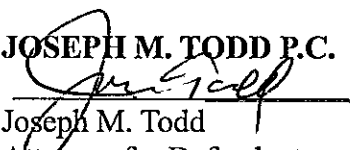
This is to certify that I have this day served the foregoing ***DEFENDANT'S MOTION IN LIMINE TO EXCLUDE AND SUPPRESS*** upon all parties to this matter by filing with the Court's CM/ECF system, which will automatically e-mail notification of same to the following counsel of record:

Bret R. Hobson  
U.S. Attorney's Office  
Richard B. Russell Building  
75 Ted Turner Drive, SW  
Atlanta, Georgia 30303-3309

This 15th day of May, 2023.

By:

**JOSEPH M. TODD P.C.**

  
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